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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,041	01/20/2006	Victor H Pereverzev	059454-0101	9180
26371 7590 08/07/2009 FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306				
EXAMINER				
RODRIGUEZ, PAMELA				
ART UNIT		PAPER NUMBER		
3657				
MAIL DATE		DELIVERY MODE		
08/07/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/543,041

**Applicant(s)**

PEREVERZEV, VICTOR H

**Examiner**

Pam Rodriguez

**Art Unit**

3657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The Amendment filed May 11, 2009 has been received and considered. In light of the new grounds of rejection now presented, a second non-final office action has been issued and appears below.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,102,109 to Schnetz.

Regarding Claim 1, Schnetz discloses a method for regulating the hydraulic resistance of a shock absorber (see Figure 1) during the operation thereof, which includes forced flow of a hydraulic fluid through a small open flow area 46 from a blind side 5 towards a rod end 24 and back from the rod end towards the blind side (see column 5 lines 57-62) having all the features of the instant invention including: that the open flow area 46 is created with varying capacity that is achieved with the use of mutually traveling metering components 6/49 (see column 6 lines 4-11) and is changed through the effect of hydraulic pressure differences on the metering components 6/49 at the blind side 5 and the rod end 24 so that a capacity decrease (i.e., when pin 49 is

moved farther into area 46) is caused by an increase of the load at the shock absorber (see column 6 lines 33-42).

Regarding Claim 2, see Claim 1 above.

Regarding Claim 3, see Claim 1 above and further note that Schnetz also discloses that when a pressure difference increases between the rod end 24 and the blind side 5, a capacity of the open flow area 46 between the rod end 24 and the blind side 5 is reduced by using mutually traveling metering components 6/49, wherein at least one of the metering components 6 is moved by applying hydraulic pressure on it (see column 6 lines 8-11), which results in changing mutual overlapping of the metering components 6/49, creating a pass 46 with variable capacity (see column 6 lines 33-42).

Regarding Claim 4, Schnetz further discloses that the variable capacity is created by changing a length of the pass 46, which is created by changing mutual overlapping of the metering components 6/49 (note: as element 6 moves down, pin 49 is forced into pass 46, thus, effectively changing the length of the pass 46).

Regarding Claim 5, the same logic as used in the Claim 4 rejection applies here as well, wherein as element 6 moves down, pin 49 is forced into pass 46, thus, effectively, changing the area of the pass 46.

Regarding Claim 6, see shock absorber 16.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,102,109 to Schnetz.

Regarding Claims 7 and 8, Schnetz discloses most all the features of the instant invention as applied above, except for the method's use in a vehicle and/or vehicle suspension containing the shock absorber.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the method of regulating hydraulic resistance of the shock absorber of Schnetz in a vehicle and/or vehicle suspension as this type of damping method would provide an effective damping means for a vehicle. The method disclosed by Schnetz would provide a smoother more controlled damping for a vehicle thus providing a better and more comfortable ride for the driver.

***Response to Arguments***

6. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Mondays 5:30 AM - 4 PM and Tuesdays 8 AM - 2 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pam Rodriguez  
Primary Examiner  
Art Unit 3657

/Pam Rodriguez/  
Primary Examiner, Art Unit 3657  
08/04/09